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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,636	01/06/2004	Tung Hoi Tse	402937	3209

23548 7590 03/22/2005  
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WASHINGTON, DC 20005-3960

EXAMINER
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LOCKETT, KIMBERLY R

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/751,636

Applicant(s)

TSE, TUNG HOI

Examiner

Kim R. Lockett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiser in view of Jennings.

Weiser et al discloses the use of a chime apparatus comprising an ornament, a plurality of chimes rods (76) attached to and suspended from the ornament, a striker (78) attached to the ornament and positioned adjacent the chime rod.

Weiser does not disclose the use of a rose or a motor, which upon activation causes movement of the striker to strike the chime rods

Jennings discloses the use of a chime (20) with a motor (34) a control unit (42) with a timer (see column 5, lines 15-30) which upon activation causes movement of the pendulum striker having corners and that is suspended from the motor to strike the chime rods. Jennings also discloses the use of a base and a cord extending between an output shaft and the pendulum (see figure 3)

Weiser and Jennings do not disclose the use of a rose.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the chimes as disclosed by Weiser with the motor as

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disclosed by Jennings and a rose in order to provide an efficient means of controlling a musical instrument since it has been than more than mere change of form or rearrangement of parts is necessary for patentability. –Span-Deck Inc. v. Fab-Con, Inc. (CA 8, 1982) 215 USPQ 835.

3. Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiser in view of Jennings and Lowe.

Weiser and Jennings do not disclose the use of a triangular shaped pendulum.

Lowe discloses the use of a chime with a triangular shaped pendulum (42).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the chimes as disclosed by Weiser with the motor as disclosed by Jennings and the triangular shaped pendulum in order to provide a striking means for chime tubes.

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weiser in view of Jennings and Gibson.

Weiser and Jennings do not disclose the use of a basket.

Yancy discloses the use of a wind chime with a basket for holding items.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the chimes as disclosed by Weiser with the motor as disclosed by Jennings and the basket as disclosed by Gibson in order to hold a myriad of objects.

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5. Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiser in view of Jennings, Gibson and Greene.

Weiser, Jennings, and Gibson do not disclose the use of a fan.

Greene discloses the use of a wind chime with a fan mounted in the base and a cover (see figure 2). Greene further discloses the use of a light (see figure 6b).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the chimes as disclosed by Weiser with the motor as disclosed by Jennings, the basket as disclosed by Gibson, and the fan as disclosed by Greene in order to help generate air.


Papers related to this application may be submitted to Group 2800 by facsimile transmission. Papers should be faxed to Group 2800 via the PTO 2800 Fax Center at 703-872-9306.

For assistance in **Patent procedure, fees or general Patent questions** calls should be directed to the **Patents Assistance Center (PAC)** whose **telephone number is 800-786-9199**. Assistance is also available on the Internet at [www.uspto.gov](http://www.uspto.gov).

Any inquiry concerning **this communication or earlier communications from the examiner** should be directed to **Kim Lockett** whose **telephone number is (703) 308-7615, after 2/3/04 my new number will be (571) 272-2067**. The examiner can normally be reached on Tuesday through Friday from 6:30 am to 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (571) 272-2107.



KIMBERLY LOCKETT  
PRIMARY EXAMINER